U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of JUNE BLANCHARD and U.S. POSTAL SERVICE,
POST OFFICE, Cleveland, OH

*Docket No. 98-1043; Submitted on the Record;*
*Issued December 3, 1999*

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DECISION and ORDER

Before DAVID S. GERSON, BRADLEY T. KNOTT,
A. PETER KANJORSKI

The issue is whether appellant established that she sustained employment-related stress.

The Board has duly reviewed the case record in the present appeal and finds that appellant has not met her burden of proof.

To establish her claim that she sustained an emotional condition in the performance of duty, appellant must submit the following: (1) medical evidence establishing that she has an emotional or psychiatric disorder; (2) factual evidence identifying employment factors or incidents alleged to have caused or contributed to her condition; and (3) rationalized medical opinion evidence establishing that the identified compensable employment factors are causally related to her emotional condition.[1] Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by appellant.[2]

Workers' compensation law is not applicable to each and every injury or illness that is somehow related to an employee's employment. There are situations where an injury or illness has some connection with the employment, but nevertheless does not come within the coverage of workers' compensation. When disability results from an emotional reaction to regular or specially assigned work duties or a requirement imposed by the employment, the disability

[1] *Donna Faye Cardwell*, 41 ECAB 730 (1990).

[2] *Victor J. Woodhams*, 41 ECAB 345 (1989).

comes within coverage of the Federal Employees' Compensation Act.[3] On the other hand, there are situations when an injury has some connection with the employment, but nonetheless does not come within the coverage of workers' compensation because it is not considered to have arisen in the course of the employment.[4]

The facts in this case indicate that on August 27, 1997 appellant, then a 45-year-old letter carrier on limited duty following a back injury,[5] filed an occupational disease claim, alleging that a change in her schedule and employment location caused stress. She had stopped work on August 7, 1997. In an attached statement, appellant alleged that while on vacation in October 1996 she was reassigned to a different work location and from the day to the evening shift. She indicated that this would create a personal hardship due to her son's illness and tried, to no avail, to get her schedule changed. In an October 11, 1997 statement, appellant alleged that the employing establishment punished her for her back injury by placing her on the night shift and that she had been improperly paid. By decision dated November 6, 1997, the Office of Workers' Compensation Programs denied the claim, finding that the evidence of record failed to establish that appellant sustained an injury in the performance of duty.

The record contains an August 12, 1997 letter from appellant to the employing establishment in which she requested that her shift be changed. A limited-duty job offer signed by appellant on August 27, 1997 provided that she would case and sweep mail from 7:00 a.m. to 3:30 p.m. daily. In reports dated August 25 and October 13, 1997, Dr. Frederick D. Harris, a Board-certified internist, diagnosed employment-related stress. By letter dated October 20, 1997, the employing establishment indicated that in October 1996 appellant was scheduled to report for work on the night shift but did not report until one month later and was accommodated on days because of the need to take care of her son. A grievance appeal dated July 7, 1998 alleged that management's action in changing appellant's schedule and location was punitive because no effort had been made to grant her an assignment within her normal work schedule.

In this case, while appellant has established that she suffers from stress, she has not established a compensable factor of employment. Part of a claimant's burden of proof includes the submission of a detailed description of the specific employment factors or incidents which the claimant believes caused or adversely affected the condition for which compensation is claimed. If a claimant's allegations are not supported by probative and reliable evidence, it is unnecessary to address the medical evidence.[6]

Regarding the change in appellant's work shift and location, generally, a change in duty shift does not arise as a compensable factor *per se.* The factual circumstances surrounding the employee's claim must be examined to discern whether the alleged injury is being attributed to the inability to work regular or specially assigned job duties due to a change in the duty shift,

[3] 5 U.S.C. §§ 8101-8193.

[4] *Joel Parker, Sr.*, 43 ECAB 220 (1991); *Lillian Cutler*, 28 ECAB 125 (1976).

[5] The record before the Board does not contain information regarding appellant's back injury.

[6] *See Bernard Snowden*, 49 ECAB ___ (Docket No. 95-1670, issued October 23, 1997).

*i.e.*, a compensable factor arising out of and in the course of employment, or to the employee's frustration over not being permitted to work a particular shift or hold a particular position. The assignment of a work schedule or tour of duty is an administrative function of the employing establishment and, absent any error or abuse, does not constitute a compensable factor of employment. Therefore, the announcement or proposal of a change in an existing tour of duty will not be found compensable factors sufficiently related to the employee's regular or specially assigned employment duties so as to arise in the course of employment.[7] In this case, appellant's claim focused on the administrative process by which her shift changed and not on an inability to perform her assignments due to the shift change. The evidence did not substantiate disparate treatment in assignments or indicate noncompliance with medical restrictions. The emotional reaction was self-generated and arose from not being permitted to work in a particular environment.[8] While appellant filed a grievance regarding the change of her schedule, there is no indication that the grievance was resolved in her favor and nothing in this record to indicate that the Office acted in an improper manner. In fact, the record contains a limited-duty job offer signed by appellant on August 27, 1997 indicating assignment to the day shift.

Regarding her claim that the shift change would be a personal hardship because of family needs, the proper forum for resolution of this issue would be under the Family and Medical Leave Act. The Board's jurisdiction extends only to those matters which pertain to the Federal Employees' Compensation Act.[9]

Regarding her claim that she was punished because she injured her back, for harassment to give rise to a compensable disability, there must be evidence that harassment or discrimination did, in fact, occur. Mere perceptions of harassment are not compensable. Unsubstantiated allegations of harassment or discrimination are not determinative of whether such harassment or discrimination occurred. To establish entitlement to benefits, a claimant must establish a factual basis for the claim by supporting his or her allegations with probative and reliable evidence and here there is nothing in the record to support appellant's claim. Hence, appellant failed to establish that she sustained an emotional condition in the performance of duty.[10]

[7] *See Peggy R. Lee*, 46 ECAB 527 (1995).

[8] *Id.*

[9] *See Helen P. Allen*, 47 ECAB 141 (1995).

[10] Since appellant has not established a compensable work factor, the Board will not address the medical evidence; *see Margaret S. Krzycki*, 43 ECAB 496 (1992).

The decision of the Office of Workers' Compensation Programs dated November 6, 1997 is hereby affirmed.

Dated, Washington, D.C.
December 3, 1999

David S. Gerson
Member

Bradley T. Knott
Alternate Member

A. Peter Kanjorski
Alternate Member